

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION**

Criminal Application No. 6254 of 2005

State of Maharashtra

. Applicant.

vs

Anil Dattaraya Mahagavkar

..Respondent

Mrs P H Kantharia, Addl. P.P for the Applicant.

CORAM: V.G.PALSHIKAR, Acg, C.J. &
SMT NISHITA MHATRE , J.

DATE: SEPTEMBER 25, 2006

P.C.:

By this application the order of acquittal recorded by the trial court is challenged. The learned judge acquitted the accused giving them benefit of doubt. He observed thus:

“According to accused No. 1 Anil he himself was assaulted by deceased Jaidas. Find some support from the evidence led at one point of time the version so offered by the prosecution witnesses the Kaidas gave slap to accused No.1 Anil after reaching there. This version is of course rescinded at the time of giving evidence in the court by the prosecution witnesses. Evidence of these prosecution witnesses P.W.1

Balkrishna and P.W. 2 Jagdish gave impression that they are suppressing something about the incident. As stated earlier as to how incident started. There is no clarity and contradictory version are offered as to the origin of the fight of assault. As earlier pointed out there is hardly any evidence against accused no. 2 Rakesh”.

The fact that there was inconsistent version and the origin fight was not proved beyond doubt by the prosecution, the learned judge granted the benefit of doubt to the accused. This conclusion cannot be called perverse in the circumstances existing before the trial judge. In our opinion, no interference is called for.

Hence application is rejected.